

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

BEST MEDICAL INTERNATIONAL, INC.

Plaintiff,

Case No.:2:10-CV-1043 (TFM)

vs.

ACCURAY, INC., a corporation,

Defendant.

**PLAINTIFF BEST MEDICAL INTERNATIONAL INC.'S
RESPONSE TO DEFENDANT'S MOTION TO COMPELL**

COMES NOW, Best Medical International and Responds to Defendant's Motion to Compel as follows:

1. On June 17, 2011 Plaintiff ordered from the United States Patent and Trademark Office (hereinafter "PTO") the file for the 283 Patent in suit. The PTO file shall be available within 25 days of that date. Plaintiff will forward to Defendant a true and correct copy of that file as soon as it is received;
2. On June 20, 2011, Plaintiff forwarded to Defendant's counsel via email a true and correct copy of the entire contents of the Best Medical file for patent 283,
3. On June 20, 2011, Plaintiff forwarded to Defendant's counsel a CD disc containing a true and correct complete electronic copy of the contents of the Best Medical file for patent 283 via Fedex;
4. On June 21, 2011, Plaintiff received notification from Fedex that the package containing the CD disc had been received by Defendant's counsel's law firm;
5. Plaintiff acknowledges that inventors note books and other initial documentation has not been provided to Defendant because Plaintiff's search for said

historical documents has been unsuccessful to date. However, Plaintiff is continue to search its files for the historical information. Plaintiff acknowledges that it has a continuing obligation to provide disclosure documents to Defendant immediately upon discovery or receipt;

5. Plaintiff is continuing the search for the requested sales invoices, contracts, purchase orders, marketing materials, and/or development agreements related to the claimed inventions. Plaintiff acknowledges that it has a continuing obligation to provide disclosure documents to Defendant immediately upon discovery or receipt;

6. Plaintiff has circulated with counsel a proposed Motion to Dismiss Count I (U.S. Patent 5,596,619) of the Amended Complaint with prejudice. No response has been received from counsel as of this date.

Dated this 21st day of June, 2011

Respectfully submitted:

By: /s/ Brit D. Groom
Brit D Groom, Esq
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Virginia State Bar No.: 80003
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CERTIFICATE OF SERVICE

I certify that on the 21st day of June, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to counsel of record.

By: /s/ Brit D. Groom
Brit D Groom, Esq
Attorney for Plaintiff